

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

E.K. WADE,

No. C 06-4751 MEJ

Plaintiff,

vs.

**AMENDED ORDER RE: SERVICE OF  
AMENDED COMPLAINT**

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES,

Defendant.

On December 8, 2008, the Court issued an order regarding service of Plaintiff E.K. Wade's amended complaint. (Dkt. #27.) However, as there has been no appearance in this case by the defendant, and Plaintiff has not provided a notice of acknowledgment of service, the Court hereby AMENDS its December 8 Order to provide revised instructions regarding service of the amended complaint.

Pursuant to Federal Rule of Civil Procedure 4(h), Plaintiff must serve the defendant by following California state law. *See* Fed. R. Civ. P. 4(h)(1), 4(e)(1). Under California Code of Civil Procedure section 415.30, service is permissible by first class mail if the defendant returns an executed notice of acknowledgment, as detailed in section 415.30. Accordingly, the Court hereby ORDERS Plaintiff to serve the Amended Complaint pursuant to California Code of Civil Procedure 415.30. Specifically, Plaintiff must mail to the defendant, by first-class mail, a copy of the summons and complaint, and include a return envelope, postage prepaid, addressed to Plaintiff. Cal. Civ. Proc. Code § 415.30(a). Plaintiff must include two copies of a notice and acknowledgment form, the requirements of which (including a sample form) are set forth in California Code of Civil Procedure 415.30(b). Service pursuant to this method shall be deemed complete if the defendant returns a written acknowledgment of receipt to Plaintiff within 20 days. Plaintiff must then file any such

1 written acknowledgment within 30 days from the date of this Order.

2 If the defendant does not provide a written acknowledgment, Plaintiff must designate a  
3 registered service processor, or a person over the age of 18 who is not a party to this action, to  
4 complete personal service pursuant to California Code of Civil Procedure section 416.10. Such  
5 service must be completed within 45 days from the date of this Order.

6 Failure to comply with this Order may result in the dismissal of Plaintiff's complaint.

7 **IT IS SO ORDERED.**

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9 Dated: December 9, 2008

  
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10 MARIA ELENA JAMES  
11 United States Magistrate Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

E K WADE,

Case Number: CV06-04751 MEJ

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on December 9, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

E.K. Wade  
542 North Civic Dr., Apt. D  
Walnut Creek, CA 94597

Dated: December 9, 2008

Richard W. Wieking, Clerk  
By: Brenda Tolbert, Deputy Clerk